

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBBIE AUTERY and SHANE FULMER

Plaintiffs,

V.

KEVIN DAVIS in his official capacity
as Sheriff of Chilton County, Alabama,
and individually,

Defendant.

CIVIL CASE No. 2:08-CV-41-WC

MOTION FOR LEAVE TO AMEND ANSWER TO COMPLAINT

COMES NOW the Defendant Kevin Davis in his official capacity as Sheriff of Chilton County, Alabama, and individually, and moves this Honorable Court to allow him to amend his Answer to Plaintiff's Complaint. As grounds for said motion, the Defendant shows unto this Honorable Court as follows:

1. Pursuant to this Court's Scheduling Order, amendments to the pleadings are allowed up until April 28, 2008.
2. The Plaintiff will not be prejudiced by this amendment and the attached amendment will further clarify the defense position with respect to the challenge of the constitutionality of the local Act which is the subject of this litigation.

For the foregoing reasons, the Defendant respectfully requests this Honorable Court to enter an Order allowing the attached Amendment to Answer to Complaint.

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FIRST AMENDMENT TO ANSWER TO THE COMPLAINT

COMES NOW the Defendant Kevin Davis in his official capacity as Sheriff of Chilton County, Alabama, and individually, and amends his Answer to the Complaint to add the following defenses:

Defendant adopts and incorporates by reference his Answer previously filed on February 12, 2008.

FORTY-EIGHTH DEFENSE

Defendant pleads the unconstitutionality of the “Act” in that it violates the notice and publication provisions of Article IV § 106 of the Constitution of Alabama, 1901.

/s/ C. Winston Sheehan, Jr.
C. WINSTON SHEEHAN, JR. (ASB-0613-A57-C)
Attorney for Defendant, Kevin Davis

/s/ Allison Alford Ingram
ALLISON ALFORD INGRAM
Attorney for Defendant, Kevin Davis

/s/ John W. Marsh

JOHN W. MARSH

Attorney for Defendant, Kevin Davis

OF COUNSEL:

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Montgomery, Alabama 36109-5413

Phone (334) 387-7680

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CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2008, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system which will send notification of such filing to the following registered persons and that those persons not registered with the CM/ECF system were served by U.S. mail:

Hon. William E. Rutledge

Hon. Gregory F. Yaghmai

RUTLEDGE & YAGHMAI

3800 Colonnade Parkway, Suite 490

Birmingham, Alabama 35243

Hon. Troy King

Alabama Attorney General

Alabama State House

11 South Union Street, Third Floor

Montgomery, AL 36130

/s/ C. Winston Sheehan, Jr.

OF COUNSEL

/s/ Allison Alford Ingram

OF COUNSEL

/s/ John W. Marsh

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